

Message Text

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PAGE 01 MEXICO 02296 160107Z

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SUBJ: REPORT ON REVISION OF MEXICAN NARCOTICS LAW

1. SUMMARY: MARCH 13 MEXICAN PRESS REPORTED PROPOSED CHANGES IN NARCOTICS LAW DESIGNED APPLY HARSHER MANDATORY PENALTIES FOR NARCOTICS OFFENSES. FOLLOWING ARE ACCOUNTS OF CONVERSATIONS WITH CHIEF OF NARCOTICS OFFICE OF PROCURADURIA AND AMBASSADOR'S CONVERSATION WITH SUPREME COURT PRESIDENT RELATING TO PROPOSED LEGISLATION. END SUMMARY.

2. MEXICAN PRESS OF MARCH 13 REPORTED PRESS CONFERENCE AT WHICH ATTORNEY GENERAL OJEDA PAULLADA SAID, INTER ALIA, THAT SOME TIME BEFORE SEPTEMBER A REVISION OF THE MEXICAN NARCOTICS LAW WOULD BE INTRODUCED BEFORE THE MEXICAN CONGRESS. THE AIM OF THE REVISED LAW WOULD BE TO INCREASE MANDATORY PENALTIES FOR NARCOTICS VIOLATIONS. THIS WOULD ELIMINATE THE POSSIBILITY UNDER PRESENT LAW THAT OFFENDERS SENTENCED TO LESS THAN 5 YEARS MAY SECURE THEIR FREEDOM BY POSTING A BOND.

3. LIC. ARMANDO LOPEZ SANTIBANEZ, CHIEF OF OFFICE OF NARCOTICS IN THE PROCURANDURIA GENERAL, ON MARCH 14, TOLD DEA DEPUTY REGIONAL DIRECTOR EDWARD HEATH AND SPECIAL ASSISTANT FOR NARCOTICS FRANCESCO ALBERTI THAT PROPOSED NEW LAW HAS BEEN IN GESTATION FOR TWO YEARS, SINCE SHORTLY AFTER OJEDA PAULLADA CAME INTO OFFICE. SOME 5 VERSIONS OF THE NEW LAW HAD BEEN CONSIDERED AND

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 MEXICO 02296 160107Z

PRESENT PROJECTO HAD BEEN SELECTED AS MOST WORKABLE AND BENE-

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4. LOPEZ STATED THAT INTENT OF PROPOSED LEGISLATION WAS TO APPLY THE LAW EQUALLY TO NARCOTICS OFFENDERS IRRESPECTIVE OF THEIR FINANCIAL RESOURCES, THEIR POLITICAL OR FAMILY INFLUENCE, ETC. HE SAID THAT THE PRESENT SITUATION, WHERE WEALTHY NORTH AMERICAN COCAINE TRAFFICKERS AND PROMINENT MEXICAN HEROIN AND MARIJUANA TRAFFICKERS ARE ABLE TO INFLUENCE JUDGES AND FEDERAL ATTORNEYS WITH LARGE SUMS OF MONEY, IS TOTALLY UNACCEPTABLE AND CONDUCIVE TO AN ATMOSPHERE OF DISRESPECT FOR THE LAW. IF PROPOSED NARCOTICS LAW IS PASSED, MINIMUM SENTENCE POSSIBLE FOR NARCOTICS OFFENSES WILL BE 5 YEARS 6 MONTHS, THEREBY NEGATING POSSIBILITY THAT OFFENDERS SENTENCED TO LESS THAN 5 YEARS CAN BUY OFF BY POSTING A BOND (IN EFFECT A FINE) AND THUS NEVER SERVE THEIR SENTENCE IN PRISON. (MANDATORY SENTENCES FOR POSSESSION OF MARIJUANA ARE STILL UNDER DISCUSSION, LOPEZ ADDED). HE SAID QUITE FRANKLY THAT ALTHOUGH THERE ARE OF COURSE SOME HONEST JUDGES AND FEDERAL ATTORNEYS, A NUMBER ARE CORRUPTABLE BY LARGE SUMS OF MONEY AND OTHER PRESSURES AT DISPOSAL OF NARCOTICS TRAFFICKERS, BOTH NORTH AMERICAN AND WEALTHY MEXICANS. THEREFORE A NUMBER OF JUDGES AND FEDERAL ATTORNEYS HAVE BEEN INDUCED THROUGH BRIBES, POLITICAL OR FAMILY PRESSURES, OR PHYSICAL FEAR, TO SENTENCE IMPORTANT OR WEALTHY OFFENDERS TO LESS THAN 5 YEARS. THIS TERRIBLE RESPONSIBILITY AND VULNERABILITY WILL NOW BE REMOVED FROM THE SHOULDERS OF THE JUDGES AND FEDERAL ATTORNEYS AND IMPOSITION OF HARSH MANDATORY SENTENCES WILL ENSURE THAT THE LAW IS APPLIED EQUALLY TO ALL WITHOUT FEAR OR FAVOR.

5. LIC. LOPEZ SAID THAT THE DRAFT LAW WILL NOW BE GIVEN TO THE JUDICIAL DEPARTMENT OF THE SECRETARIAT OF THE PRESIDENCY FOR CONSIDERATION; FOLLOWING APPROVAL THERE, THE DRAFT LAW WILL GO TO THE MEXICAN CONGRESS, WHERE IT WILL BE PASSED WITHOUT MUCH CONTROVERSY. HE EXPECTED THAT THE NEW LAW WOULD COME INTO EFFECT BEFORE SEPTEMBER, POSSIBLY IN JULY. MEANWHILE, HE EMPHASIZED, THE EXISTING LAW WILL REMAIN UNCHANGED. HE DID ADMIT UPON QUESTIONING, HOWEVER, THAT DEPENDING ON THE INDIVIDUAL JUDGES CONCERNED, THE PUBLIC KNOWLEDGE OF THE FORTHCOMING NEW LAW MIGHT HAVE TWO EFFECTS: JUDGES OPEN TO BRIBERY OR PRESSURE WOULD BE INCLINED TO SENTENCE AWAITING OFFENDERS PRIOR TO THE PROMULGATION OF THE NEW LAW AND OF COURSE SUCH SENTENCES WOULD BE LIKELY TO RUN LESS CONFIDENTIAL

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PAGE 03 MEXICO 02296 160107Z

THAN 5 YEARS; OTHER, MORE HONEST AND OBJECTIVE JUDGES, MIGHT FEEL OBLIGED TO APPLY THE UPPER RANGE OF AVAILABLE SENTENCES PRIOR TO THE NEW LAW, OR MAY EVEN DELIBERATELY DELAY SENTENCING UNTIL ITS PROMULGATION.

6. IN AMBASSADOR'S MARCH 15 CALL ON SUPREME COURT PRESIDENT, LIC. EUQUERIO GUERRERO LOPEZ, LATTER WAS ASKED COMMENT ON PROPOSED NARCOTICS LAW. LIC. GUERRERO SAID HE HAD NOT YET HAD OPPORTUNITY

HEAR ATTORNEY GENERAL'S PERSONAL EXPLANATION OF LAW, BUT THAT HIS EXPERIENCE AS RECTOR OF GUANAJUATO UNIVERSITY HAD CONVINCED HIM OF SERIOUS MORAL AND PHYSICAL DAMAGE DONE BY DRUGS. HE THEREFORE FAVORS ACTING WITH GREATEST ENERGY TO STAMP OUT NARCOTICS. (ALTHOUGH HE DID NOT SPECIFY HOW THIS SHOULD BE DONE, WE ASSUME LIC. GUERRERO WILL FAVOR HARSHER MANDATORY PENALTIES APPLIED TO TRAFFICKERS; HOWEVER, HE MAY ADOPT A MORE LENIENT ATTITUDE TOWARD YOUTHFUL USERS, WHOM HE CHARACTERIZED AS VICTIMS OF DRUG ABUSE).

7. THE EMBASSY WILL KEEP THE DEPARTMENT INFORMED ON THE PROGRESS OF AND ANY CHANGES IN THE PROPOSED LEGISLATION.

8. COMMENT: THE EMBASSY RECENTLY HAS SEEN LITTLE EVIDENCE THAT US CITIZEN TRAFFICKERS IN HARD DRUGS HAVE RECEIVED PREFERENTIAL TREATMENT BY PAYMENT OF LARGE SUMS OF MONEY. ONLY A VERY FEW HAVE MANAGED TO HAVE THEIR SENTENCES REDUCED FROM "ILLEGAL IMPORTATION OF DRUGS" TO "ATTEMPTED ILLEGAL IMPORTATION". THE LATTER CHARGE CARRIES A LESSER PENALTY AND THEREBY A FEW US CITIZEN PRISONERS HAVE MANAGED TO GAIN THEIR FREEDOM THROUGH PAYMENT OF A "FIANZA", OR BOND.

DURING THE PAST YEAR, THE US CITIZEN JAIL POPULATION HAS MORE THAN DOUBLED, WITH NEARLY 400 NOW INCARCERATED FOR NARCOTICS VIOLATIONS ALONE. THIS NEW LAW UNDOUBTEDLY WILL CAUSE THE FIGURE TO APPROACH 1000 WITHIN A RELATIVELY SHORT TIME, PARTICULARLY IF THE PENALTIES FOR POSSESSION OF AND TRAFFICKING IN MARIJUANA ARE INCREASED. THIS OF COURSE WILL RESULT IN INCREASED CONSULAR PROBLEMS AND ATTENDANT CONGRESSIONAL PRESSURES UNLESS SOME EXCEPTION IS MADE FOR MARIJUANA.

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